

Applicant: Simon Piers Robinson
Serial No.: 10/619,646
Filed : July 15, 2003
Page 9 of August 31, 2007 Amendment

Remarks

Claims previously numbered 56-75 were renumbered as claims 55-74 by the Examiner in the March 2, 2007 Office Action and as amended herein as claims 55-74 are pending in the subject application.

Restriction

In Section 1 of the March 2, 2007 Office Action the Examiner maintained the restriction requirement and withdrew from consideration pending product claims 62-65, pending process of making claims 66-72 and pending method of use claims 73 and 74. The March 2, 2007 Office Action did acknowledge the requirement of M.P.E.P. §821.04 to rejoin the withdrawn claims upon allowance of the examined claims 55-61. Applicants respectfully request such rejoinder now that the examined claims 55-61 are in condition for allowance, as explained herein.

Priority

Applicant notes that the recitation of priority and benefit as recited in Section 4 of the March 2, 2007 Office Action is incomplete. The correct and complete recitation of the priority and benefit claims in this application appears on page 1, after the title, of the subject specification as amended by applicant's June 26, 2007 Amendment.

Objection to the Abstract

In Section 5, the March 2, 2007 Office Action objected to the Abstract.

In response, Applicant has corrected the Abstract by this Amendment. Therefore, the objection is moot.

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Objection to the Drawings

In Section 6, of the March 2, 2007 Office Action objected to the drawings as allegedly failing to comply with the requirements of 37 C.F.R. §§1.821-1.825. Specifically, the March 2, 2007 Office Action alleged that Figures 1-15 recite sequences that are not identified by SEQ ID NOS.

In response, Applicant refers the Examiner to MPEP 2422.02 which states that "when a sequence is presented in a drawing, regardless of the format or the manner of presentation of that sequence in the drawing, the sequence must still be included in the Sequence Listing and the sequence identifier ("SEQ ID NO:X") must be used, either in the drawing or in the Brief Description of the Drawings." (Emphasis added) Applicants note that the Brief Description of the Drawings section of the subject specification, inter alia, on page 9, line 3 through page 10, line 31, recites the sequence identifiers for those sequences found in Figures 1-15. Accordingly, Figures 1-15 comply with the sequence identification requirements.

Rejections under 35 U.S.C §102

In section 8 of the March 2, 2007 Office Action, claims 55 and 57-61 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Newman et al. In the same Section, claims 56 and 58-62 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Bass et al.

Both of the rejections were premised on the interpretation of the claims which was set forth in Section 7 of the March 2, 2007 Office Action that the claims read on "any fragment of two or more nucleotides contained in SEQ ID NO. 29 or 30."

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In response, Applicant has amended the claims to clarify the claimed invention. Clearly, the amended claims do not read on "any fragment of two or more nucleotides contained in SEQ ID NO. 29 or 30." Accordingly, the rejections based on Newman et al. and on Bass et al. are moot.

Rejection Under 35 U.S.C. §112, first paragraph

In section 9, the March 2, 2007 Office Action rejected claims 55-61 under 35 U.S.C. §112, first paragraph, on the basis of interpreting the claims to cover "fragments of nucleotide sequence of SEQ ID NO. 29 and 30 that encodes polyphenoloxidase and/or copper binding site of said SEQ ID NO."

In response, Applicant has amended the claims to clarify the claimed invention. Specifically, the amended claims are not directed to "fragments" as described in section 9 of the March 2, 2007 Office Action. Accordingly, the rejection set forth in section 9 of the March 2, 2007 Office Action is moot.

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No fee, other than the enclosed \$1,020.00 fee for a three month extension of time, is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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